

ORDINANCE 2016-005

AN ORDINANCE AMENDING TEXT OF TITLE 4, CHAPTER 3 OF THE BAXTER CITY CODE

THE CITY COUNCIL OF THE CITY OF BAXTER, MINNESOTA DOES ORDAIN:

The text of Title 4, Chapter 3 (Open Burning) of the Baxter City Code is hereby amended by deleting the ~~stricken~~ material and adding the underlined material as follows:

4-3-1: PURPOSE:

4-3-2: DEFINITIONS:

4-3-3: STATUTE ADOPTED:

4-3-4: PROHIBITED BURNING:

4-3-5: PERMIT REQUIRED:

4-3-6: DATES ALLOWED:

4-3-7: PERMIT HOLDER RESPONSIBILITY:

4-3-8: REVOCATION:

4-3-9: BURNING BAN OR AIR QUALITY ALERT:

4-3-10: PENALTY:

4-3-1: PURPOSE:

The purpose of this chapter is to regulate open burning within the City of Baxter, to protect the public health, safety, and welfare. Through passage of this ordinance, the designated fire official is hereby authorized to adopt and impose burning restrictions to aid in the prevention of wildfire and to consult with the Department of Natural Resources (DNR), Division of Forestry to develop any restrictions or other criteria, establish permitted categories of open burning within the city and provide for a permitting process for open burning, except when such open burning is defined as a "recreational/camp fire" as prescribed in this chapter. (Ord. 2013-6, 4-16-2013)

4-3-2: DEFINITIONS:

For the purposes of this chapter, the terms in this section have the meaning given them, unless the context clearly indicates or requires a different meaning:

DESIGNATED FIRE OFFICIAL. The Fire Chief, Fire Marshal, City Fire Warden, or other designee who provides fire protection or public safety services to the city.

LEAF BURNING MAP. A map adopted by the city council depicting property located within the City of Baxter where the conducting of leaf burning is identified as either allowed or not allowed.

OPEN FIRE OR-OPEN BURNING: The burning of any matter if the resulting combustion products are emitted directly into the atmosphere without passing through a stack, duct, or chimney, except a recreational as defined herein. Mobile cooking devices such as charcoal grills, wood smokers, manufactured hibachis, and propane or natural gas devices are not considered open burning devices. A fire burning in matter (whether concentrated or dispersed) contained within a fully enclosed firebox, structure or vehicle and from which the products of combustion are emitted into the open atmosphere without passing through a stack, duct or chimney.

RECREATIONAL/CAMP FIRE: A fire set with an approved starter fuel no more than three feet in diameter by three feet high contained within a recreational fire site; using dry, clean wood; producing little detectable smoke, odor, or soot beyond the property line; conducted with an adult tending the fire at all times; for recreational, ceremonial, or social food preparation; extinguished completely before quitting the occasion; and respecting weather conditions, neighbors, burning bans, and air quality requirements so that nuisance, health, or safety hazards will not be created. A campfire is a type of recreational fire. No more than one recreational fire is allowed on any property at one time. for cooking, warming or ceremonial purposes which is not more than three feet (3') in diameter by three feet (3') high and has had the ground five feet (5') from the base of the fire cleared of all combustible material.

RECREATIONAL FIRE SITE. An area of no more than a 3-foot diameter circle (as measured from the inside of the fire ring or border); either natural rock, cement, brick, tile, blocks, or ferrous metal. Burning barrels are not a recreational fire site. Recreational fire sites shall not be located closer than 25 feet to any structure or combustible material.

RUNNING FIRE. An attended fire allowed to spread through surface vegetative matter under controlled conditions for the purpose of vegetative management, forest management, game habitat management, or agricultural improvement.

SNOW COVERED: The ground has a continuous, unbroken cover of snow to a depth of three inches (3") or more, surrounding the immediate area of the fire sufficient to keep the fire from spreading.

STARTER FUELS. Dry, untreated, or unpainted kindling, branches, or charcoal fire starter. Paraffin candles and alcohols are permitted as starter fuels and as aids to ignition only. Propane gas torches or other clean gas burning devices causing minimal pollution may be used to start an open burn.

VEGETATIVE MATERIALS. Dry leaves, dry grass clippings, twigs, branches, tree limbs, untreated or unpainted wood that contains no glues or resins, and other similar materials. Paper and cardboard are not considered vegetative materials.

WOOD: Dry, clean fuel only such as twigs, branches, limbs, manufactured fireplace logs, charcoal, cordwood or untreated lumber dimensional lumber. "Wood" does not include wood that is green, with leaves or needles, rotten, wet, oil soaked, or treated with paint, glue or preservatives. Clean pallets may be used for recreational fires when cut into less than three-foot lengths. (Ord. 2013-6, 4-16-2013)

4-3-3: STATUTE ADOPTED:

Minnesota statutes Chapter 88, as they may be amended from time to time, sections 88.01 through 88.22 with reference to the definition of terms, conditions of operation, permits, and all other matters pertaining to open burning are hereby adopted by reference and made a part of this chapter as if fully set forth herein. It is the intention of the City Council that all future amendments of Minnesota Statute Chapter 88, are hereby adopted by reference as if they had been in existence at the time this ordinance was adopted. (Ord. 2013-6, 4-16-2013)

CITY MAY BE MORE RESTRICTIVE THAN STATE LAW

The Council is authorized to impose, and has imposed in this ordinance, additional restrictions on open burning within its limits beyond those contained in Minnesota Statute Chapter 88, as it may be amended from time to time.

4-3-4: PROHIBITED BURNING:

A. Excessive Or Noxious Smoke: No person shall conduct, cause or permit open burning of ~~leaves, except as allowed herein;~~ oils; petroleum fuels; rubber; plastics; chemically treated materials; or other materials which produce excessive or noxious smoke such as, but not limited to: tires;; railroad ties;; treated, painted or glued wood; composite shingles;; tarpaper;; insulation;; composition board;; sheetrock;; wiring;; paint or paint filters.~~other similar materials.~~

~~1. Exception: The burning of leaves is allowed within areas set forth on the "leaf burning map", as adopted by the city council.~~

B. No person shall conduct, cause, or permit the open burning of: Hhazardous Waste or materials from; sSalvage oOperations; solid waste generated from an industrial or manufactured process; materials from a service or commercial establishment; or building materials generated from demolition of commercial or institutional structures. ~~Demolition Of Structures: No person shall conduct, cause or permit open burning of hazardous waste or salvage operations, or open burning of building material generated from demolition of commercial or institutional structures.~~

C. ~~Food Waste:~~ No person shall conduct, cause or permit open burning of discarded materials resulting from the handling, processing, storage, preparation, serving or consumption of food.

D. Burners: "Burners" as currently defined in Minnesota statutes shall not be allowed within the city limits. (Ord. 2013-6, 4-16-2013)

E. No person shall conduct the burning of leaves in areas not identified as approved leaf burning areas as established identified on the Leaf Burning Map adopted by the city council. Leaf burning shall only be allowed between September 15 and December 1.

~~B. April 1 Through May 15: No open burning will be allowed between the dates of April 1 and May 15 unless the ground is snow covered. Determination of snow covered condition shall be made by the Brainerd DNR forestry office. The only exception will be for the burning of vegetative material generated by the clearing of property for construction projects or lawful burning of "wood" (as defined) generated from industrial processes as permitted by the DNR and in conformance with MPCA regulations. Permits for the above activities will be available only through the Brainerd DNR forestry office. (Ord. 2013-6, 4-16-2013)~~

4-3-5: OPEN BURNING PROHIBITED EXCEPT BY PERMIT. PERMIT REQUIRED:

No person shall start or allow any open burning on any property in the city without first having obtained an open burning permit, ~~permit~~, except that a permit is not required for any fire which is a "Recreational Fire /camp fire" as defined herein or if the ground is Snow Covered as defined in Section 4-3-2. ~~Open burning permits will be available from DNR-certified fire wardens and the Brainerd DNR forestry office.~~ (Ord. 2013-6, 4-16-2013)

PERMITTED OPEN BURNING.

Under special or extraordinary circumstances, open burning permits may be issued by the fire chief or by a DNR forestry official for:

- a. Elimination of a health hazard that cannot be abated by other practical means, as determined by the commissioner of the Department of Health or the local health authority.
- b. Ground thawing for utility repair and construction.
- c. Running fires.
- d. Disposal of vegetative matter for managing forest, prairie, or wildlife habitat, and in the development and maintenance of land and rights-of-way where chipping, composting, land-spreading, or other alternative methods are not practical.
- e. Disposal of diseased trees generated on-site, diseased or infested nursery stock, or diseased beehives.

f. Disposal of unpainted, untreated, non-glued lumber and wood shakes generated from construction, where recycling, reuse, removal, or other alternative disposal methods are not practical.

(B) Fire training permits may only be issued by the DNR.

(C) Permits for the operation of a permanent tree and brush burning sites may only be issued by the DNR.

PERMIT APPLICATION

(A) Open burning permits shall be obtained by making application on a form prescribed by the DNR on the DNR's website or through the Brainerd Fire Department. The permit application shall be presented to the designated fire official for review.

PERMIT PROCESS

(A) The applicant shall demonstrate to the designated fire official the ability to comply with the applicable state statutes, this ordinance, or any additional regulations that may be adopted.

DENIAL OF PERMIT

(A) If the established criteria for the issuance of an open burning permit are not met, the application will be denied.

(B) Even if the established criteria for the issuance of an open burning permit are met, if it is determined that a practical alternative method for disposal exists, a pollution or nuisance conditions would result, or if a burn event safety plan cannot be drafted to the satisfaction of the designated fire official, the application may be denied.

~~4-3-6: DATES ALLOWED:~~

~~A. Ground Snow Covered: Open burning in conformance with the requirements of this chapter shall be allowed when the ground is snow covered and no open burning permit shall be required¹.~~

~~B. April 1 Through May 15: No open burning will be allowed between the dates of April 1 and May 15 unless the ground is snow covered. Determination of snow covered condition shall be made by the Brainerd DNR forestry office. The only exception will be for the burning of vegetative material generated by the clearing of property for construction projects or lawful burning of "wood" (as defined) generated from industrial processes as permitted by the DNR and in conformance with MPCA regulations. Permits for the above activities will be available only through the Brainerd DNR forestry office. (Ord. 2013-6, 4-16-2013)~~

4-3-7: PERMIT HOLDER RESPONSIBILITY:

- A. A-Confirm No Ban Or Alert: Prior to starting an open burn, the permit holder shall be responsible for confirming that no burning ban or air quality alert is in effect.
- B. The open burning site shall have appropriate communication and fire suppression equipment available.

B. Fire: Every The open burn shall be attended to constantly tended by the permit holder or their competent representative at all times. No fire may ever be allowed to smolder. The fire shall be completely extinguished before the permit holder or his or her representative leaves the site. It is the responsibility of the permit holder to have a valid permit, as required by this ordinance, available for inspection on site by law enforcement, the Fire Department, a Minnesota Pollution Control Agency (MPCA) representative or DNR officer.

C. Extinguished: The open burn shall be completely extinguished before the permit holder or their representative leaves the site.

D. Valid Permit On Site: It is the responsibility of the permit holder to have a valid permit available for inspection on site.

E. Compliance: The permit holder is responsible for compliance and implementation of all general conditions, and special conditions, and guidelines as established in the issued permit. The permit holder shall be responsible for all costs incurred as a result of the burn, including but not limited to fire suppression and administrative fees.(Ord. 2013-6, 4-16-2013)

4-3-8: REVOCATION OF PERMIT:

The open burning permit is subject to revocation at the discretion of a DNR forest or conservation officer, a fire warden, law enforcement officer, or the fire chief. Reasons for revocation include, but are not limited to: a fire hazard existing or developing during the course of the burn; any of the permit conditions being violated during the course of the burn; pollution or nuisance conditions developing during the course of the burn; or a fire smoldering with no flame present; or no attendant being present at the fire. (Ord. 2013-6, 4-16-2013)

4-3-9: BURNING BAN OR AIR QUALITY ALERT:

(A)The designated fire official is authorized to determine when conditions make open burning potentially hazardous and declare a burning ban within the city.

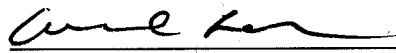
(B) ~~No open burning or recreational/camp fire or open burn~~ will be ~~allowed~~ permitted when the city or the DNR has officially declared a burning ban due to potential hazardous fire conditions or when the MPCA has declared an air quality alert. (Ord. 2013-6, 4-16-2013)

4-3-10: PENALTY:

Any person violating any provision of the chapter is guilty of a misdemeanor and, upon conviction, shall be punished by a fine and/or imprisonment. (Ord. 2013-6, 4-16-2013)

EFFECTIVE DATE.

This ordinance becomes effective on the date of its publication, or upon the publication of a summary of the ordinance as authorized by Minnesota Statute 412.191, subd. 4, as it may be amended from time to time, and meeting the requirements of Minnesota Statute 331A.01, subd. 10, as it may be amended from time to time.


Darrel Olson, Mayor

ATTEST


Kelly Steele, Assistant City Administrator

City Seal

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